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MEDTRONIC, INC.
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MS-LC340
MINNEAPOLIS MN 55432-5604

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MAY 18 2004

In re Application of
Lee et al.
Application No. 09/740,080
Filed: 18 December, 2000
Attorney Docket No. P-8788

OFFICE OF PETITIONS
ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b),¹ filed by facsimile on 4 May, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 1 April, 2003, for failure to properly respond to the final Office action mailed on 1 October, 2002, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was submitted on 25 November, 2002, and again on 14 March, 2003, with an extension of time. However, neither amendment placed the case

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

in *prima facie* condition for allowance. Notice of Abandonment was mailed on 23 July, 2003. The petition filed on 1 December, 2003, was dismissed on 4 March, 2004.

Petitioners have filed a Request for Continued Examination (RCE) with the present petition, and have indicated that the amendment after final rejection filed on 25 November, 2002, is the submission required by 37 CFR 1.114.

The RCE fee of \$770.00 will be charged to counsel's deposit account, No. 13-2546, as authorized on the RCE.

The application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



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Office of Petitions